

**Translation**

**Office Action of the German Patent and Trademark Office dtd. October 30, 2003**

The following references are cited in the present Office Action for the first time. Their numbering will be adhered to throughout the further procedure:

- (1) DE 36 32 966 A1
- (2) US 5,790,020
- (3) DE 296 24 318 U1

**1. Lack of intelligibility of the function of the subject-matter of the application**

Even when carefully studying the application documents, it seems that the question which is relevant for assessing the application remains open, i. e. how the security unit is shifted into the deactivated mode, departing from the monitoring mode – a procedure which is taking place when the security unit is to be separated from a product which was duly paid –.

The possibility which seems to be the solution at first, i. e. to dismantle the power supply (compare p. 25, para. 4) does not seem to be suitable because concerning this item it is explained in paragraph 3 of page 25 that the removal is not possible without activating an alarm.

If the application is further prosecuted, the function of the specified case must be clarified by stating the relevant passages of the description.

Concerning reference (1) which is hereby introduced into the procedure, the aforementioned problem which is obviously existing is solved by activating the receiver at any move, i. e. if

the security unit is operated by the staff of a shop or by a thief. Thus, it is inter alia possible to remove the security unit from the monitoring via the remote control.

Since a final evaluation is not possible without having clarified the above-identified question, in particular concerning the different operating modes of the device, the present Office Action is essentially restricted to an examination of the independent claims 1, 8, 35 and 38.

## **2. Concerning the prior art and claims 1 and 35**

Reference (1) already discloses a procedure for protecting products against theft which is mostly corresponding to the application.

Corresponding to the subject-matter of claim 1 it is known also from reference (1) to equip the products to be protected with security units having the shape of battery-supplied tags or labels. The problem arising here is the same as with the application and with devices of this kind, namely the limited battery life.

According to the idea to solve the problem according to the invention, i. e. to connect and/or to activate power consumers which are not required, as the receiver in the monitoring mode, only on demand, the same procedure is also explained in reference (1).

As to this item, the device according to reference (1) is equipped with a switch 87 which is closed when the security label is moved, thus "wakening" the remaining components as e. g. the receiver by connecting them to the power supply, i. e. the battery (compare col. 14, l. 7 - 42 in connection with figure 4 and figure 6a, 6b).

If the security label is removed by a thief, said security label will move, hence it is also valid for the subject-matter of reference (1) that the receiver is activated when the device is shifted to the alarm mode. Therefore, the features of claim 1 are also known from the subject-matter of reference (1). Consequently, claim 1 is not allowable due to a lack of novelty.

Furthermore, departing from reference (1), even when accepting the disadvantage, that when the label is operated by the staff of a shop in an authorized manner it is not possible to influence the label via radio contact, restricting the power supply to an alarm event comprises no inventive step. The essential effect of the application according to which only the very devices may be influenced by the transmitting signals which have activated themselves before, is also obvious from the solution of reference (1).

### **3. Concerning the prior art and claims 8 and 38**

In order to solve the problem according to the invention, the distance between the sensor element and the evaluating unit is not significant. The posed problem rather departs from the battery supply. Thus, it is considered to be obvious to transfer the solution approach known from reference (1), i. e. to ensure the power supply for components of the device only on request, to a battery-fed central device, particularly since the remote control of said product protecting devices is also known in the art (compare reference 2).

Consequently, the independent claims 3 and 38 are not allowable due to lacking inventiveness.

### **4. Concerning the prior art and essential aspects of the dependent claims**

The alarm mode may be deactivated also in the subject-matter of citation (1) according to claims 2 and 36 via the receiver which is activated simultaneously (compare col. 16, l. 37 - 42).

The same is valid for claim 38 in connection with claim 38.

Concerning the claims which are related to the mechanical connection between the bracket component and the mounting component, it is hinted to citation (3) of the applicant.

As to the further independent claims, it must be stated that the claims have to comprise the features which are relevant for those skilled in the art to solve the problem. This is obviously not the case, particularly for the embodiment according to claim 3, for the following reasons:

Apart from the fact that the features of the embodiment according to independent claim 3 do not indicate how the solution of the first partial problem which is posed by the applicant is supplemented, i. e. to increase the operating period, the feature "... shifted in a connect mode" in particular does not add anything to the second partial problem which is also posed by the applicant, i. e. to facilitate the operation.

Since it does not become obvious what is caused and/or entailed by shifting to the connect mode, this procedure is at discretion of those skilled in the art. Said feature is not able to substantiate an inventive distance over the prior art.

## **5. Conclusion**

In the light of all this, the grant of the patent can not be envisaged. If applicant does not intend to respond to the present Office Action, an informal notice is requested.

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